IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S. SIRI JAGAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 21802 of 2007(U)

PETITIONER:

**SHAJI @ SHAJI CHERIYAN, AGED 34 YEARS,
S/O. LATE CHERIYAN, PUTHANPURAYIL HOUSE,
KARUMATHRA P.O., VAZHANI (VIA), THRISSUR
DISTRICT.**

BY ADV. SRI. SHOBY K. FRANCIS

RESPONDENTS:

1. **DISTRICT COLLECTOR, THRISSUR.**
2. **THAHSILDAR, TALAPPILLY TALUK,
WADAKANCHERY P.O., THRISSUR.**
3. **VILLAGE OFFICER, KARUMATHRA VILLAGE,
KARUMATHRA P.O., THRISSUR.**
4. **ASSISTANT EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT (P.W.D),
TALAPPILLY TALUK, WADAKKANCHERRY P.O.,
THRISSUR.**
5. **TALUK SURVEYOR, TALAPPILLY TALUK,
WADAKKANCHERRY P.O., THRISSUR DISTRICT.**

BY SENIOR GOVERNMENT PLEADER SRI. BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 21802 of 2007(U)

A P P E N D I X

PETITIONER'S EXHIBITS:

EXT. P1	**:**	**COPY OF PURCHASE CERTIFICATE/PATTA DATED 10.04.85 NO. 1/85 ISSUED TO THE LATE FATHER OF THE PETITIONER BY THE LAND TRIBUNAL, WADAKANCHERRY.**
EXT. P2	**:**	**COPY OF HALF PORTION OF THE VILLAGE RECEIPT FOR THE PAYMENT OF BASIC TAX ISSUED TO THE PETITIONER'S FATHER DATED NIL IS.**
EXT. P3	**:**	**COPY OF PAGES 1,4 & 26 OF THE RATION CARD ISSUED TO THE PETITIONER'S LATE FATHER DURING NOVEMBER 1985.**
EXT. P4	**:**	**COPY OF ELECTORAL CARD DATED 10.07.90 ISSUED TO THE PETITIONER'S LATE MOTHER ROSAMMA.**
EXT. P5	**:**	**COPY OF ELECTORAL CARD ISSUED TO THE PETITIONER ON 02.09.94.**
EXT. P6	**:**	**COPY OF DEMAND NOTICE ISSUED BY THE PANCHAYATH FOR THE BUILDING TAX DATED 30.10.97 FOR THE PERIOD 1993 TO 1998.**
EXT. P7	**:**	**COPY OF BUILDING TAX RECEIPT ISSUED TO THE PETITIONER'S LATE MOTHER FOR THE PERIOD 1.4.91 TO 31.3.92.**
EXT. P8	**:**	**COPY OF BUILDING TAX RECEIPT FOR THE PERIOD 1.4.94 TO 31.3.95.**
EXT. P9	**:**	**COPY OF BUILDING TAX RECEIPT ISSUED FOR THE PERIOD 96 TO 97 DATED 28.10.96.**
EXT. P10	**:**	**COPY OF BUILDING TAX RECEIPT DATED 09.01.2007.**
EXT. P11	**:**	**COPY OF NOTICE DATED 21.11.92 ISSUED TO THE PETITIONER'S MOTHER BY THE K.S.E.B.**
EXT.P12	**:**	**COPY OF RECEIPT ISSUED TO THE PETITIONER DATED 14.6.2000.**
EXT. P13	**:**	**COPY OF 1ST AND 2ND PAGES OF THE RATION CARD ISSUED TO THE PETITIONER.**
EXT. P14	**:**	**COPY OF RECEIPT ISSUED TO THE PETITIONER DATED 04.10.2006 BY THE OFFICE OF THE 1ST RESPONDENT.**

WP(C).No. 21802 of 2007(U)

EXT. P15	**:**	**COPY OF REQUEST SUBMITTED BY THE PETITIONER DATED 01.06.2007 TO THE 1ST RESPONDENT.**
EXT. P16	**:**	**COPY OF REQUEST DATED 01.06.2007 SUBMITTED TO THE 3RD RESPONDENT BY PETITIONER.**
EXT. P17	**:**	**COPY OF REQUEST DATED O1.06.2007 SUBMITTED TO THE 5TH RESPONDENT BY PETITIONER.**
EXT. P18	**:**	**COPY OF THE JUDGMENT IN W.P. © NO. 18280/07 DATED 14.06.2007.**
EXT. P19	**:**	**COPY OF THE EVICTION NOTICE DATED 13.7.2007 ISSUED BY 4TH RESPONDENT TO THE PETITIONER.**

// True Copy //

P.A. to Judge.

Acd

S. SIRI JAGAN, J.

W.P.(C)NO.21802 OF 2007

DATED THIS THE 1st DAY OF AUGUST, 2007

JUDGMENT

The petitioner challenges Ext.P19 notice by which the petitioner has been directed to vacate the property mentioned therein. The petitioner points out that the petitioner had earlier approached this Court in which Ext.P18 judgment has been passed, whereby it was observed that the 2nd respondent can evict the petitioner only after issuing notice, affording opportunity of being heard including opportunity to adduce evidence and passing a speaking order. The petitioner complains that none of the above has been complied with, while passing Ext.P19.

2. I have heard the learned Government pleader also. In view of Ext.P18 judgment passed by me, I am satisfied that Ext.P19 is unsustainable since the learned Government pleader is not able to satisfy me that the procedure applicable as held in Ext.P18 judgment has been complied with.

3. In the above circumstances, Ext.P19 is quashed. If the 2nd respondent wishes to proceed further, he shall do so only after issuing show cause notice to the petitioner inviting objections, granting an

opportunity to the petitioner of being heard which shall include opportunity to adduce evidence also and passing a speaking order dealing with each and every contention of the petitioner. The petitioner shall not be evicted from the property till after seven days of communication of the order so passed to the petitioner.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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